

**MEDICAL BOARD OF CALIFORNIA**

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**DIVISION OF LICENSING
QUARTERLY MEETING
Minutes**

**Embassy Suites
Laguna/La Jolla Room
1325 East Dyer Road
Santa Ana, CA 92705
(714) 241-3800**

May 12, 2006

MINUTES

The publicly noticed open session of the Division of Licensing (DOL) was called to order at 8:01 a.m. by Dr. Richard Fantozzi, President. Staff called the roll. A quorum was present.

Members Present:

Richard Fantozzi, M.D., President
Laurie Gregg, M.D., Secretary
Hedy Chang
Gary Gitnick, M.D.
Selma Haider

Members Absent:

James A. Bolton, PhD., Vice President
Mitchell S. Karlan, M.D.

Staff Present:

Herman Hill, Associate Analyst, Licensing Program
Kim Kirchmeyer, Deputy Director
Christine Lujan, Management Services Technician, Licensing Program
Armando Melendez, Business Services Assistant, Business Services Office
Cindi Oseto, Associate Governmental Program Analyst, Licensing Program
Pat Park, Associate Governmental Program Analyst, Licensing Program
Dino Pierini, Business Services Assistant, Business Services Office
Letitia Robinson, Associate Governmental Program Analyst, Legislative/Regulatory Unit
Teresa Schaeffer, Executive Assistant
Kevin Schunke, Staff Services Manager I, Legislative/Regulatory Unit
Anita Scuri, Department of Consumer Affairs, Staff Counsel
Barry Taylor, Staff Services Manager I, Licensing Program

Pam Thomas, Staff Services Analyst, Licensing Program
Dave Thornton, Executive Director
Frank Valine, Program Manager, Diversion Program
Linda Whitney, Chief of Legislation, Legislative/Regulatory Unit
Curt Worden, Staff Services Manager I, Licensing Program

Members of the Audience:

Faith Gibson, L.M., California College of Midwives
Carrie Sparrevohn, L.M., California Association of Midwives
Ashley Branch, University of California, Irvine, School of Medicine, Dean's Office
Mary Elizarrares, University of California, Irvine, School of Medicine
Cecelia Melendres, Keck School of Medicine, University of Southern California
Julie Zamoyksi, University of California, Los Angeles

Guest Speaker:

William Norcross, M.D., Director of PACE

Dr. Fantozzi commented on last years Division of Licensing (DOL) policy initiatives and the goal of improving the DOL's method of doing business in the hopes of becoming more transparent and efficient. He noted the DOL has begun an audit process of the Special Programs and stated two school site visits have been completed, and the others will soon be visited and evaluated. Subsequently, schools will be visited every two years.

Dr. Fantozzi said the Midwifery committee has completed its charge from Senate Bill 1950; staff is now in the legislative process to have data (e.g. births, deaths) assigned for the midwives, and to set up an advisory counsel. Dr. Fantozzi stated the committee will also look at the Midwifery Education Accreditation Counsel (MEAC) to ensure they perform in accordance with what the Board expects is in the best interests of California consumers.

Dr. Fantozzi announced legislation is in process dealing with several issues including: disclosure of sexual misbehavior on applications, expansions on 2111, 2113 and 2168 Special Programs, clarifying the Board's reciprocity statutes, and clarifying issues related to the licensing process.

Dr. Fantozzi thanked Senator Figueroa, Senator Runner, Assembly Member Negrete-McCloud, and Assembly Member Bermudez for helping to bring several issues forward in legislation which will help the Division complete its job. He commented on several changes which have been made that have aided in the initial licensing process of applications and thanked all the Licensing staff for their help in bringing DOL into alignment with statute. Dr. Fantozzi expressed his appreciation to Linda Whitney, Dave Thornton, and Anita Scuri for the work done with the legislative process.

Agenda Item 3 Reports on Actions Taken in Closed Session

Dr. Fantozzi reported the Application Review Committee reviewed two application files: one applicant was approved to continue in the licensing process and one applicant was directed to meet current statutory requirements before proceeding to licensure. The Application Review Committee also met by teleconference on March 22, 2006. The committee reviewed four application files and approved four applicants to continue in the licensing process. He also

mentioned the Special Programs Committee met and approved one section 2113 faculty service, approved one 2111 clinical fellowship, and deferred the application of one section 1327.

Dr. Fantozzi reported full division met in closed session and reviewed one proposed decision after non adoption, one proposed decision, three petitions for penalty relief, and two stipulations for probationary licenses.

Agenda Item 4: Approval of Minutes from the February 3, 2006 Meeting

It was m/Gregg, s/Chang, c/All to approve the minutes of the February 3, 2006 meeting.

**Agenda Item 5 – Regulations – Public Hearing
Revenue Neutral Fee Changes to Offset Loss of Investigative Cost
Recovery**

Dr. Fantozzi, President of the Division of Licensing, called to order and announced the Division of Licensing would now conduct a public hearing on the proposed regulation to amend Sections 1351.5 and 1352 of Title 16 of the California Code of Regulations as described in the notice published in the California Regulatory Notice Register and sent by mail to those on the board's mailing list. He expressed that this rulemaking would raise the Board's license and renewal fees as required by the Business and Professions Code to offset the loss of revenue from investigation and prosecutorial cost recovery. For the record, Dr. Fantozzi established the date and time of the hearing as May 12, 2006, at approximately 9:30 a.m. Dr. Fantozzi stated the purpose of this hearing was to receive oral testimony concerning the regulatory proposals described in the notice.

Ms. Whitney stated the increase in the fee will be less than what was anticipated based upon recent calculations. She stated the fee increase would be approximately \$16.00, bringing the total biennial fee to \$806.00.

After calling for public comments and receiving none, Dr. Fantozzi then closed the public comment segment.

After calling for comments from the Division members and receiving none, Dr. Fantozzi then called for a motion.

Ms. Scuri advised that the motion should authorize the Executive Director to adopt the regulation with modification to a reduced amount to be determined by the available data, after the expiration of any 15 day comment period, if there are no adverse comments. She explained that since the amount noticed in the regulation is not going to be the amount formally adopted, and in order for the Office of Administrative Law to approve this regulation, there must be a delegation to someone to adopt the regulations, because there has to be a comment period put forth to modify the amount of the fees.

There was a motion to delegate authority to the Executive Director to adopt the regulation with a modified fee from the amount stated in the notice after the expiration of the 15-day comment period if there are no adverse comments.

It was m/Chang, s/Fantozzi, c/All to authorize the Executive Director to adopt.

Agenda Item 6 Legislation and Pending Regulations

Ms. Whitney stated the post graduate training authorization letter regulations that were heard in April 2005 have been disapproved by the Office of Administrative Law.

Ms. Scuri said the Office of Administrative Law disapproved the regulations on the basis of clarity because it referenced a letter but provided no detailed process for obtaining the letter. Ms. Scuri recommended that the Division allow staff to decide whether they need to further develop the process or whether there are other alternatives that might be better. Ms. Scuri advised against appealing the disapproval to the governor's office

Ms. Whitney stated the regulation heard in July 2005, regarding precedent decisions was submitted to the Department of Consumer Affairs in April 2006 for review and will then proceed to the Office of Administrative Law. She further stated that staff is still working on the final paperwork for the regulation heard in November 2005 concerning International Medical Schools.

Dr. Fantozzi asked if Ms. Whitney would address where the Division is on the re-review legislation, fee recovery, and timelines; all of which were discussed in previous meetings. He further inquired about the statutory authority that would be needed for the Division to send site visit teams to re-review certain recognized international medical schools that have not been reviewed for many years. He expressed his desire to send out the interrogatories by the end of the year, although he was aware of the current statutory language authorizing re-reviews in 2009.

Ms. Whitney stated staff approached Assembly Member Bermudez to incorporate in AB 1796 the licensing program legislation regarding the possibility of charging schools for the review of an application, as well as, charging for re-reviews of applications. She noted Mr. Bermudez responded he would prefer not to put these changes in AB 1796 at this time.

Ms. Scuri said the Division adopted a protocol for these visits which calls for the completion of a specific questionnaire. She elaborated the anticipated length of time for completion of that questionnaire was 18 months. She assumed that licensing staff would start the process of attaining out of country travel approval, etc., two years in advance of the 2009 date.

Dave Thornton proposed a suggestion that at the November Board Meeting the Division consider legislation to cover the costs of these trips.

Agenda Item 7 Reports on Special Programs Site Visits

A. UCSF School of Medicine Site Visit, February 21, 2006

Ms. Oseto addressed some documentation problems at UCSF that are currently being investigated by UCSF staff. Ms. Oseto said based upon all the information that was obtained at the site visit, licensing staff has no concerns about the training and the level of clinical experience the participants were receiving. She noted, however, that there were difficulties in understanding some of the letters that were prepared and presented to the administrative staff. She said it became apparent that there was a need for additional letters

to be provided and staff needed to ensure that they were actually received. Ms. Oseto stated the Division now provides a letter to both the administrative staff and the individual participant, and will be sending all materials by certified mail.

Dr. Gitnick expressed his concern over the passive bureaucratic nature of large institutions like the University of California and suggested that there be some kind of requirement for an internal spot audit process conducted by these institutions of their own programs.

Staff was directed to develop protocols and work with California medical schools to develop spot audits on 2111, 2112, and 2113 Special Programs by the summer of 2006.

B. UCSD School of Medicine Site Visit, March 6, 2006 and March 28, 2006

Dr. Fantozzi commended the staff and faculty at University of California San Diego (UCSD) but expressed his concern over their interpretation of what should constitute a 2113 participant and the fact that teaching affiliated hospitals may be “outside of the arms reach” of resident faculty. He also noted a number of contractual and billing issues uncovered at UCSD. He then addressed a request from the Ophthalmology Department at UCSD that the Division lift their limitation of eight 2111 fellows. He noted the various staff and monitoring problems associated with an increase in 2111’s at the Ophthalmology Department at UCSD, which has four times as many 2111’s as any other school. He also expressed concern that they were getting outside of the confines of what the intent of the program really is. The other members shared his concerns over the risk management involved in lifting the limitation and allowing more 2111 physicians into the program.

It was m/Chang, s/Gregg, c/All to deny the request to lift the limitation of eight 2111 slots at UCSDs Department of Ophthalmology.

Staff was directed to research the number of Special Program slots at each medical school, set a consistent number of slots the schools could allocate between their departments, and present the findings to the Division at the July 2006 meeting.

C. Highland General Hospital Site Visit, April 27, 2006

Dr. Fantozzi recalled the Division’s visit to Highland General Hospital (Highland) on April 27, 2006, and asked Cindi Oseto to provide an overview of some of the problems found with the hospital’s student rotations.

Ms. Oseto noted the 1327 program is a non-ACGME teaching hospital and the Division has mechanisms for these individual facilities to request to become sponsors of medical student rotations for international medical schools. She stated the program director at Highland had violated a number of policies regarding the 1327 program such as implementing rotations prior to receiving the Board’s permission. A site visit was conducted, and based upon what the site team found, they were satisfied with the attempts being made to bring the program into alignment with statutes. She then introduced the program director’s request that specific rotations be included in the 1327 Program. She stated the Division identified a sponsorship agreement with California Pacific Medical Center, which is ACGME approved. Rotations in critical and intensive care, diabetes, and pulmonary medicine would not be incorporated into

the director's 1327 program request. Staff suggests granting tentative approval for these rotations, if the program director can provide the Division written documentation outlining the mechanisms and protocols that will assure there will be no further violations of the 1327 program.

Staff was directed to obtain a written plan from the 1327 program director at Highland outlining how he plans to conduct his program and comply with statutory requirements under Special Programs Section 1327. Staff will present that document to the Division at the July 2006 meeting. The Division decided not to grant tentative approval of the proposed rotations at Highland prior to receipt of a written plan from the program director.

Agenda Item 8 Midwifery Committee Report

It was m/Gregg, s/Gitnick, c/All to approve the Birthwise Midwifery School.

Dr. Fantozzi directed Mr. Hill to evaluate how the Midwifery Education and Accreditation Council (MEAC) conducts its accreditation process and to provide the Division with some form of evaluation audit.

Agenda Item 9 Presentations of Professionalism and Continuing Competency

Dr. Fantozzi introduced Dr. William Norcross, Executive Director of PACE at UC San Diego. He asked Dr. Norcross to discuss the issues of professionalism, continued competency, direction and other important issues dealing with special programs and licensing.

Dr. Norcross expressed his concern that medical students are graduating without the proper understanding of good professional conduct and medical ethics. He stated this problem originates prior to medical school, because entering students are judged almost solely on their abilities to memorize facts and regurgitate them accurately on an examination. He emphasized the desired qualities in a physician are difficult to examine and many people are often uncomfortable evaluating them. Dr. Norcross recommended the Division ask medical schools how they assess the professionalism of their medical students. He found it problematic that the systems for evaluating the students' levels of professionalism vary greatly between medical schools.

Dr. Norcross listed the six core clinical competencies that the ACGME believes, taken together globally, can describe the overall competency of a physician:

1. Patient Care
2. Medical Knowledge
3. **Interpersonal Style** and Communication; the ability to communicate with others.
4. Practice Based Learning and Improvement; if a doctor cannot continue to learn while he or she is in practice, it will not take them long to become incompetent. They will not be offering their patients state of the art medical treatment and diagnosis.
5. Professionalism
6. **Systems-Based Practice**; the ability of the doctor to work within the health care system effectively.

Dr. Norcross expressed his view that if a doctor is lacking in any of the areas listed above, then that physician may not be competent to practice medicine safely and efficiently. He elaborated upon the abstract nature of the term "professionalism" and the difficulty in coming up with a concrete definition of it, but he listed a number of key components inherent in good professional conduct: honesty, empathy, good communication, respect for others, respect for professional boundaries, compassion, responsibility, reliability, integrity, etc.

Dr. Fantozzi directed staff to research the possibility of creating a task force or a public education committee to address the issue of physician professionalism and continuing competency.

Agenda Item 10 Division Chief's Report

Mr. Thornton stated the Division of Licensing is in the process of looking for a new Chief. He indicated he and Deputy Director Kim Kirchmeyer have been sharing the responsibilities in the Licensing Program since the end of February 2006.

Mr. Thornton stated that mandatory overtime in February of 2006 and the voluntary overtime in March 2006, were efforts to get the number of applications down and the cycle times down for licensing. Mr. Thornton stated that as of April 17th, the average processing time from the date an application is received to the time of the first review is currently running 79 calendar days for U.S./Canadian graduates, with a high of 88 and a low of 69 calendar days. He asserted the February 2006 Chief's report incorrectly stated an average of 78 calendar days when it was actually 127 calendar days.

Kim Kirchmeyer reported in an attempt to investigate why the numbers were so high, licensing staff reviewed the entire application process and made some changes that staff believe will streamline the procedure and make it more efficient. She noted the way mail is processed has been changed. She further commented the Licensing Section is reviewing the computer system in hopes of further improving upon the application process. Also, the Licensing Section is looking at possible staff changes, moving staff, and possibly looking at other units within the Board where the Division can redirect staff into licensing to help out with the backlog. Ms. Kirchmeyer also noted the format and time needed for evaluating problem files have been greatly reduced, which has streamlined that process.

Agenda Item 11 Elections of Officers

It was m/Gregg, s/Gitnick, c/All to nominate Hedy Chang for Secretary. She was elected by acclamation.

It was m/Gitnick, s/Chang, c/All to nominate Laurie Gregg for Vice President. She was elected by acclamation.

It was m/Haider, s/Gregg, c/All to nominate Richard Fantozzi for President. He was elected by acclamation.

Agenda Item 12 Public Comments


There was no public comment.

Agenda Item 13 Agenda Items for July 2006 Meeting


Dr. Fantozzi suggested incorporating in the next agenda discussions on professional standards and continuing competency for physicians, as well as, discussions on the 2111 and 2113 Special Program Regulations.

Agenda Item 14 Adjournment

Dr. Fantozzi adjourned the meeting at 11:35 a.m.



Richard D. Fantozzi, M.D., President



Laurie Gregg, Secretary